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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,985	09/22/2006	Ralph Brookfield	2365-124	5621

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ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON, DC 20005

EXAMINER

HICKS, CHARLES N

ART UNIT	PAPER NUMBER
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2623

NOTIFICATION DATE	DELIVERY MODE
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09/16/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTO-PAT-Email@rfem.com

Office Action Summary	Application No. 10/542,985	Applicant(s) BROOKFIELD ET AL.	
	Examiner CHARLES N. HICKS	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-15,24-30,33-37 and 39-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-15,24-30,33-37 and 39-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/26/2008, 10/18/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 9-13, 24-28, 33-35, and 39-41 are rejected under 35 U.S.C. 102(e) as being anticipated by Lemmons (US 2004/0210942 A1), hereinafter referred to as Lemmons.

3. Regarding claims 9 and 24, Lemmons discloses a method of broadcasting a television program including interactive content, the method comprising broadcasting over a television network a stream of audiovisual data for display by a receiver and broadcasting over the television network a separate stream of interactive content data for storage at the receiver, wherein the stream of audiovisual data includes codes in response to the receipt of which the receiver is intended to include the stored interactive content data in the display of the audiovisual data (**fig. 1, pg. 2, paragraphs 23-24**).

4. Regarding claims 10 and 25, Lemmons discloses a method of receiving a television program including interactive content, the method comprising receiving a

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stream of audiovisual data for display and receiving a separate stream of interactive content data, storing the interactive content data and responding to codes in the stream of audiovisual data to include the stored interactive content data in the display of the audiovisual data **(fig. 1, pg. 2, paragraphs 23-24)**.

5. Regarding claims 11, 26, 33, and 39, Lemmons discloses the method wherein the interactive content is included in the display of the audiovisual data by overlaying it on the displayed audiovisual data **(fig. 1, pg. 3-4, paragraphs 35-36)**.

6. Regarding claims 12, 27, 34, and 40, Lemmon discloses the method wherein the displayed interactive content is varied in response to further codes included in the audiovisual data stream **(fig. 1-2, pg. 3, paragraphs 30-31)**.

7. Regarding claims 13, 28, 35, and 41, Lemmon discloses the method wherein the codes are transmitted a Vertical Blanking Interval (VBI) of the audiovisual data stream **(fig. 1-2, pg. 3, paragraphs 29-30)**.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 14-15, 29-30, 36-37, and 42-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemmons.

10. Regarding claims 14, 29, 36, and 42, Lemmon fails to disclose the method wherein the codes are transmitted in a page of Teletext.TM. Official notice is taken due to the fact that to transmit codes in a page of Teletext is extremely well known in the art of video distribution systems. Therefore it would have been obvious to one of ordinary skill in use a known method of data transfer since it will provide predictable results.

11. Regarding claim 15, 30, 37, and 43, Lemmon fails to disclose the method wherein the codes are transmitted in Teletext.TM. page 7AA. Official notice is taken due to the fact that to transmit codes in Teletext is extremely well known in the art of video distribution systems. Therefore it would have been obvious to one of ordinary skill in use a known method of data transfer since it will provide predictable results.

Claim Objections

12. Claims 9 and 24 objected to because of the following informalities: Applicant must clarify meaning behind "codes in response to the receipt of which the receiver is intended to include the stored interactive contend data". Appropriate correction is required since phrase has no clear meaning.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Carro (US 2004/0139474 A1) discloses a system for enhancing broadcast with information on the world wide web. Blackketter (2003/0204854 A1) discloses communicating scripts in a data service channel of a video signal.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHARLES N. HICKS whose telephone number is (571)270-3010. The examiner can normally be reached on M-F 7:30AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chris Kelley/
Supervisory Patent Examiner, Art
Unit 2623

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